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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

6
7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 vs.

10 FRANCISCO ROSALES-HERNANDEZ,

11 Defendant.
12

2:18-cr-00304-RCJ-VCF

ORDER

13 A grand jury of this District has indicted Defendant Francisco Rosales-Hernandez of
14 illegal reentry after deportation under 8 U.S.C. § 1326. Defendant has asked the Court to dismiss
15 the Indictment for improper venue, because he first came to the attention of the immigration
16 authorities in California. *See United States v. Hernandez*, 189 F.3d 785, 791 (9th Cir. 1999). The
17 Government has responded not by disputing the law or the facts but by filing its own motion,
18 asking the Court to dismiss the Indictment without prejudice. To the extent the motions can be
19 read to request different remedies, i.e., dismissal with versus without prejudice, the Court grants
20 the Government's motion. *See United States v. Ruelas-Arreguin*, 219 F.3d 1056, 1060 n.1 (9th
21 Cir. 2000) ("When venue has been improperly laid in a district, the district court should either
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1 transfer the case to the correct venue upon the defendant's request, or, in the absence of such a
2 request, dismiss the indictment *without prejudice*." (citations omitted; emphasis added)).

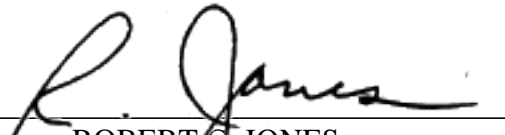
3 **CONCLUSION**

4 IT IS HEREBY ORDERED that the Motion to Dismiss Indictment Without Prejudice
5 (ECF No. 18) is GRANTED, the Motion to Dismiss Indictment (ECF No. 17) is GRANTED IN
6 PART and DENIED IN PART, and the Indictment (ECF No. 1) is DISMISSED, without
7 prejudice.

8 IT IS FURTHER ORDERED that the Clerk shall close the case.

9 IT IS SO ORDERED.

10 Dated this 13th day of November, 2018.

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13 ROBERT C. JONES
United States District Judge
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